

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOSE RODRIGUEZ,
PETITIONER

V.

C.A. NO. _____

LUIS SPENCER,
RESPONDENT

MOTION FOR APPOINTMENT OF COUNSEL

Comes now the Petitioner, Jose Rodriguez, pro se, in the interests of justice and pursuant to 18 U.S.C. § 3006A, and hereby moves this Honorable United States District Court for the appointment of counsel.

In support hereof, Petitioner attaches and incorporates the "Affidavit of Petitioner" (hereafter "Affidavit") and further asserts that he should be deemed entitled to the appointment of counsel for the following reasons:

1. Petitioner lacks any degree of fluency in the English language ["Attachment 1" to "Affidavit"];
2. Petitioner lacks any degree of understanding of the rules of legal procedure in any language;
3. Petitioner's case involves complex legal issues; and
4. Petitioner is unable to otherwise obtain counsel.

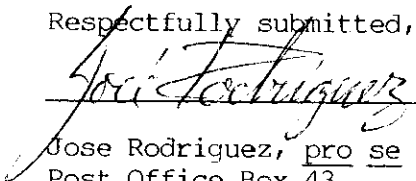
This Honorable United States District Court has full discretion to appoint counsel in this matter under the interests of justice. Compare Rennie v. Artuz, 1997 WL 403161 (E.D.N.Y. July 10, 1997)(unpublished)(in deciding whether "interests of justice" mandate an appointment of counsel, the habeas court

considers whether the claims are "likely to be of substance," the litigant's ability to present the case, the complexity of the case, and other similar relevant issues). Furthermore, as noted in the accompanying "Affidavit," the instant habeas application and memorandum of law were prepared solely by and through the efforts of a certificated paralegal, and Petitioner is unable to effectively continue in these proceedings on his own. Accord Winsett v. Washington, 130 F.3d 269, 281 (7th Cir. 1997)(quoting Forbes v. Edgar, 112 F.3d 262, 264 (7th Cir. 1997)(stating that court must appoint counsel "if, given the difficulty of the case and the litigant's ability the [litigant] could not obtain justice without an attorney, [he] could not obtain a lawyer on [his] own, and [he] would have had a reasonable chance of winning with a lawyer at [his] side").

Wherefore, Petitioner prays that this Honorable United States District Court grant and allow the instant motion.

Dated: 08-26-04

Respectfully submitted,


Jose Rodriguez, pro se
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